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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,314	04/19/2004	Daiju Yoshino	01306.000125	9821

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FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER
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SEVERSON, JEREMY R

ART UNIT	PAPER NUMBER
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3653

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/826,314

Applicant(s)

YOSHINO, DAIJU

Examiner

Jeremy R. Severson

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

Receipt is acknowledged of a sworn translation of priority document number JP 2003-116768, which papers have been placed of record in the file.

The 35 USC 102(e) rejection of the claims over Kamiya (US 7,007,948) have been withdrawn.

The claim rejections have been maintained or modified as follows:

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,561,709 to McVeigh et al. (*hereinafter* "McVeigh").

McVeigh discloses a sheet processing apparatus aligning and stacking a sheet comprising:

a stacking means (40) for stacking the sheet or sheet bundle;

a conveying means (33) for conveying the sheet or sheet bundle toward the stacking means;

Art Unit: 3653

a sheet rear end aligning means (50) for aligning rear end of the sheet or sheet bundle upon pressing toward the stacking means the rear end of the sheet or sheet bundle conveyed by the conveying means (see Fig. 5-6); and

a controlling means (col. 2, lines 45 et seq.) for controlling operation of the sheet rear end aligning means,

wherein the controlling means controls the operation of the sheet rear end aligning means so that acceleration of the sheet or sheet bundle by pressing of the sheet rear end aligning means satisfies a relation:

$$a < -\mu_1'g \text{ and } a < -\mu_2'g$$

where acceleration of the sheet or sheet bundle by pressing of the sheet rear end aligning means at a time that the sheet rear end aligning means presses the rear end of the sheet or sheet bundle to align the rear end, is denoted as  $a$  where gravitational acceleration is denoted as  $g$ , where coefficient of kinetic friction between the sheet or sheet bundle pressed by the sheet rear end aligning means and the stacking means is denoted as  $\mu_1'$ , and where coefficient of kinetic friction between the sheet or sheet bundle pressed by the sheet rear end aligning means and the sheet or sheet bundle already stacked on the stacking means is denoted as  $\mu_2'$ .

In regard to claims 2, 3, 7 and 8, McVeigh discloses a processing means capable of temporarily stacking the sheets on the upstream side of the conveyor and stacking means (see Fig. 1) which includes a processing tray (see Fig. 1), an aligning means (32) and a stapler (22).

Art Unit: 3653

In regard to claims 4 and 9, McVeigh discloses the stacking means' stacking surface extends substantially horizontally (see Fig. 1).

In regard to claim 5, McVeigh discloses an image forming apparatus (col. 2 line 60) and a sheet processing apparatus (see Fig. 1).

In regard to claim 6, McVeigh discloses an image forming section (col. 2, line 60).

In regard to claims 10-18, it is inherent in McVeigh that acceleration of the sheet by pressing of the sheet rear end aligning wall is determined based on a kind of the sheet. Acceleration will be different depending on the weight and coefficient of friction of the sheets.

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,302,389 to Kato et al. (*hereinafter* "Kato").

Kato discloses a sheet processing apparatus aligning and stacking a sheet comprising:

a stacking means (80) for stacking the sheet or sheet bundle;

a conveying means (60) for conveying the sheet or sheet bundle toward the stacking means;

a sheet rear end aligning means (60a) for aligning rear end of the sheet or sheet bundle upon pressing toward the stacking means (see e.g. Fig. 10) the rear end of the sheet or sheet bundle conveyed by the conveying means; and

a controlling means (col. 3, line 22) for controlling operation of the sheet rear end aligning means,

wherein the controlling means controls the operation of the sheet rear end aligning means so that acceleration of the sheet or sheet bundle by pressing of the sheet rear end aligning means satisfies a relation:

$$a < -\mu_1'g \text{ and } a < -\mu_2'g$$

where acceleration of the sheet or sheet bundle by pressing of the sheet rear end aligning means at a time that the sheet rear end aligning means presses the rear end of the sheet or sheet bundle to align the rear end, is denoted as  $a$  where gravitational acceleration is denoted as  $g$ , where coefficient of kinetic friction between the sheet or sheet bundle pressed by the sheet rear end aligning means and the stacking means is denoted as  $\mu_1'$ , and where coefficient of kinetic friction between the sheet or sheet bundle pressed by the sheet rear end aligning means and the sheet or sheet bundle already stacked on the stacking means is denoted as  $\mu_2'$ .

In regard to claims 2, 3, 7 and 8, Kato discloses a processing means capable of temporarily stacking the sheets on the upstream side of the conveyor and stacking means (see Fig. 10) which includes a processing tray (30), an aligning means (31) and a stapler (10).

In regard to claims 4 and 9, Kato discloses the stacking means' stacking surface extends substantially horizontally (see Fig. 10).

In regard to claim 5, Kato discloses an image forming apparatus (col. 1 line 9) and a sheet processing apparatus (see Fig. 10).

In regard to claim 6, Kato discloses an image forming section (col. 1, line 9).

Art Unit: 3653

In regard to claims 10-18, it is inherent in Kato that acceleration of the sheet by pressing of the sheet rear end aligning wall is determined based on a kind of the sheet. Acceleration will be different depending on the weight and coefficient of friction of the sheets.

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,142,461 to Aaso et al. (*hereinafter* "Aaso").

Aaso discloses a sheet processing apparatus aligning and stacking a sheet comprising:

a stacking means (26) for stacking the sheet or sheet bundle;

a conveying means (48) for conveying the sheet or sheet bundle toward the stacking means;

a sheet rear end aligning means (31) for aligning rear end of the sheet or sheet bundle upon pressing toward the stacking means the rear end of the sheet or sheet bundle conveyed by the conveying means (col. 11, lines 50 et seq.; see also Fig. 16); and

a controlling means (col. 11, line 11) for controlling operation of the sheet rear end aligning means,

wherein the controlling means controls the operation of the sheet rear end aligning means so that acceleration of the sheet or sheet bundle by pressing of the sheet rear end aligning means satisfies a relation:

$$a < -\mu_1'g \text{ and } a < -\mu_2'g$$

where acceleration of the sheet or sheet bundle by pressing of the sheet rear end aligning means at a time that the sheet rear end aligning means presses the rear end of the sheet or sheet bundle to align the rear end, is denoted as  $a$  where gravitational acceleration is denoted as  $g$ , where coefficient of kinetic friction between the sheet or sheet bundle pressed by the sheet rear end aligning means and the stacking means is denoted as  $\mu_1'$ , and where coefficient of kinetic friction between the sheet or sheet bundle pressed by the sheet rear end aligning means and the sheet or sheet bundle already stacked on the stacking means is denoted as  $\mu_2'$ .

In regard to claims 2, 3, 7 and 8, Aaso discloses a processing means capable of temporarily stacking the sheets on the upstream side of the conveyor and stacking means (see Fig. 2) which includes a processing tray (24), an aligning means (8b) and a stapler (8).

In regard to claims 4 and 9, Aaso discloses the stacking means' stacking surface extends substantially horizontally (see Fig. 1).

In regard to claim 5, Aaso discloses an image forming apparatus (col. 1 line 6) and a sheet processing apparatus (see Fig. 1).

In regard to claim 6, Aaso discloses an image forming section (col. 1, line 6).

In regard to claims 10-18, it is inherent in Aaso that acceleration of the sheet by pressing of the sheet rear end aligning wall is determined based on a kind of the sheet. Acceleration will be different depending on the weight and coefficient of friction of the sheets.

### ***Response to Arguments***



Art Unit: 3653

Applicant's arguments filed 14 December 2006 have been fully considered but they are not persuasive.

Applicant argues that the McVeigh, Aaso and Kato do not disclose Applicant's claimed "control means which controls operation of the sheet rear end aligning means either so as to control the acceleration of the sheet or sheet bundle to meet the formulas set forth in claims 1 to 6, or to control acceleration of the sheet or sheet bundle by pressing of the sheet rear end aligning wall in accordance with the kind of sheet in use" (remarks, p 10).

The Examiner disagrees. First, it is the Examiner's contention that any positive force applied by the sheet rear end aligning means will result in the inequalities found in claims 1-6 being satisfied. Second, as noted above it is inherent in the references that acceleration of the sheet by pressing of the sheet rear end aligning wall is determined based on a kind of the sheet. Acceleration will be different depending on the weight and coefficient of friction of the sheets.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3653

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Severson whose telephone number is (571) 272-2209. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on 571-272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
PATRICK MACKEY  
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Jeremy R Severson